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WESTERN DISTRICT OF MICHIGAN  
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Docket No. 371507  
Court Of Appeals  
State Of Michigan

People Of Mi v. Omar Nigel Melums

1/15/2025

Docket No. 371507

LC No. 2008-482980-FC

- Motion For Reconsideration Of -  
Delayed Application for  
Leave To Appeal

Comes now Omar N. Melums, the Appellant-Movant Pro-Se to the fullest, respectfully to the upmost. Would like to ask this Honorable Court to reconsider its denial in the order recently given in case No. 371507 on Nov. 19<sup>th</sup>, 2024.

Denial was because I failed to establish that the Trial Court erred in denying the successive motion for relief from judgment. MCR 6.502(G)

Your Honors let me start with Please hear me when I say and address "That I am Pro-Se. I do not know law. I did not even know I had a Statute of Limitation issue until 13 1/2 years after sentencing. Only when I questioned the double charging in my case and began reading from Lexis did I learn my 6<sup>th</sup> charges were 2 yrs past their limit.

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When I filed the motion for Leave To Appeal in Benien County Trial Court, I had no idea it would be treated as a second successive. Because the issue of Time-Banded Charges was never raised in past motions or appeals.

Then when preparing the delayed application for you all to review, I focused on Plain Error, the complimenting case *People v. Burns* 250 Mich App 434, where Justice Jeff, Cavanagh & Sudd ruled, "that a defendant may not be charged with or, therefore, tried on a time-banded offense" "Consequently the issue whether a defendant is innocent or guilty of an uncontested time-banded offense is per se not submissible to a jury."

Now I interpreted this opinion, it was plain error, a jurisdictional defect that can be raised at any time. a violation of due process, Good Cause was shown. A out right winner! This was my perception. Then with me being Pro'ce, I assumed the court would construe my motion and see all I have, and have not articulated.

The responding Prosecutor in Trial Court, in his footnote said, "The People are troubled, however, by the fact that because the time limitations had run, defendant should not been convicted of the remaining offenses. The People would not object to vacation of those convictions, but are unaware of any procedural means by which that may be

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accomplished in this Court now that defendant's direct appeal is over.

Forgive my emotions, but I feel that my ignorance of the Legal System, its rules and laws leaves me with violated due process. That I am left with this trial error all because I was unable to learn law in a "year's time." To poor to afford Counsel who would have perhaps raised these claims during trial or within the first appeal. (\*1yr A.E.D.P.A.)

Where does a poor, ignorant prisoner go from here with a unjust conviction? 300.00 I paid towards the fines of the Time-Based Charges. Could go towards a jail-house lawyer's hope saving. But talks of refunding that isn't even on the table.

United States Supreme Court's decision in *United States v. Olano*, 507 U.S. 725; 113 S.Ct. 1770; 123 L. Ed 2d 508 (1993) In *Olano* the Supreme Court explained the plain error rule of FR Crim P. 52(b) which provides: Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court. The *Olano* court emphasized that a Constitutional right may be forfeited by a party's failure to timely assert that right. 12, p 731 HN9 To avoid forfeiture under the plain error rule #3 requirements must be met.

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1) Error must have occurred. 2) The Error was Plain, i.e. clear or obvious. 3) The plain error affected substantial rights 507 U.S. at 731-734. The 3rd requirement generally requires a showing of prejudice i.e. that the error affected the outcome of the lower court proceedings 16.734. Right to due process (denial of due-process.)

The Pro's perspective  
I have of the Olano ruling, what my comprehension grasped.  
1) Prosecution agrees a ~~error~~ occurred 2) Both Courts would agree that a time-barred conviction is Plain. 3) The error did affect the outcome, by me paying fines, and me being convicted of a uncontroverted time-barred offense. The Statute Of Limitation Defense was never waived. The Jury was not properly instructed. A Statute of Limitation Defense is a vested right. Prejudice occurred when the six overly state criminal charges were introduced, placing another type of distortion into the fact finding process. *Spaziano v. Florida* 468 U.S. 447, 445-456; 104 S.Ct. 3154 82 L Ed 2d 340 (1984) A Jury by law must be instructed on applicable Law *Burns*, 250 Mich App at 441-442 MCL 768.29

Your Honors, I do not wish to upset you, or to tell you all about something you live everyday. I lived on half the years live been on this earth. You all know Law, I do not. But I believe you understand my situation, and all I'm trying to say.



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Something, (a case) I found that may allow you to help me, or back a decision to do so in *Owens v. Hill* U.S. dist Lexis 184658, Rule 12(b)(6) of Federal Rules of Civil Procedure. As stated in *Ashcroft v. Iqbal* 556 U.S. 662-677 79, 129 S.Ct. 1937 (2009) "Mere Complaints are to be held to less stringent standards than formal pleadings drafted by lawyers, and should therefore be liberally construed."

(Federal Law) Rule 35: The Court may correct an illegal sentence at any time. *Neftin v. United States* 358 U.S. 415 *Duggins v. United States* 240 F.2d 479.

Your Honors, I am trying. I've reached out to many; Law Firms & Schools asking for Pro Bond help. Or at the least advised. I approached the Benven County Trial Court humble. Not as a bitter, Anti-Social, know it all. Showing my belly, as a repumed salvageable defendant. Using this Error as a chance to negotiate a plea. Willing to Aid the People for a Chance at life.

Your Honors, had I been aware that Second Successive should have been my focus in the delayed application, I would have studied all I could on it. I ask for mercy, and for the Court to recognize my diligence. My humble & sincere attempt to have a fair shake!

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It's said that I, the Defendant who bears the burden of establishing entitlement to the relief requested MCR 6.508(2) In 6.502.(6) paragraph (c)

It reads; The Court may waive the provisions of this rule if it concludes that there is a significant possibility that the Defendant is innocent of the crime.

Would I be interpreting the law incorrectly saying "Time-based Charges placed against me is in the same light as being charged of a crime the Court found me to be innocent of?"

Would I be wrong saying "Prejudice was shown", by a Court rule a Safe Guard being broken; allowing the jury to hear testimony? Evidence being shown of Time-based offenses? The Vested Right of a Statute of Limitation Defense being disregarded? Prejudiced by the jury never being instructed as the law & due process states? Allowing more distortion into the jury's fact finding.

Legislatures and The Creator of our Constitution, State & Nation, placed Safe guards, Rules, & Rights in place to be followed. Is it ok for The Trial Court to say, "yes Defendant was charged with offenses past Statute of Limitation, however, no big deal? Keep his 300<sup>00</sup> paid towards the fines, the charges are recorded & never mind this 2 week trial, 2 day deliberation, and

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Notes of "Dead Lock"; could have had a different outcome, had we honored his Constitutional Rights.

Chesebro v. People 125 Mich App@ 149

Toussie v. United States 397 U.S. 112, 114-115, 90 S. Ct. 853

U.S. v.owell 383 U.S. 116, 120, 122 86 S. Ct 773

Smith v. United States, 568 U.S. 106, 112; 133 S. Ct. 714; 184 L Ed 579 (2013)

A statute of limitations defense does not call the criminality of the defendant's conduct into question, but rather reflects a policy judgment by the Legislature that the lapse of time may render criminal acts ill suited for prosecution.

The Ex Post Facto clause of the United States Constitution may be violated if a statute of limitation for Criminal Prosecutions is extended after it had already expired against a particular Criminal Defendant. Stogner v. California 539 U.S. 607, 632-33 123 S. Ct. 2446, 156 L Ed 544 (2005)

Lastly, United States v. Cotton 535 U.S. 625 630 152 L Ed 2d 860 122 S. Ct. 1781 (2002) Subject matter Jurisdiction ... Can never be forfeited or waived. (A Capital Defendant has a due process right to a jury instruction on a time-based offense.

May these cases support my argument, and bring you to reconsider & rule in my favor. Again in closing your Honors. I am Pro Se, not a lawyer please. Don't treat me as one. I have a M.E.D.

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I can not afford an Attorney, I dont know how to use a type writer. However, I do persue all appeals swiftly as I can, with all I self teach & understand.

Please Reconsider, Thank you for your time.

Respectfully & Truthfully  
Submitted

Orin H. Holmes  
Jan 15<sup>th</sup> 2025



behind the counter after he was shot (Tr V at 1106-1108, 1111-1112, 1134). Shurn testified that defendant told him that he had committed the crimes with someone named Raymond and that the gun was a .40-caliber Glock (Tr VI at 1249-1250, 1254). Sammis presented a witness, Bruce Bradshaw, who suggested that Wynn could have read defendant's police reports while they were in jail together (Tr VI at 1335-1344). But for Shurn and Seuell, Sammis could only speculate that they had learned the details through talk on the streets (Tr VII at 1457-1458).

In short, in defendant's trial the whole of the evidence was greater than the sum of the parts. Any given witness might be impeachable, but the chances that they were all lying or mistaken, yet happened to come up with details that the physical evidence corroborated, were minuscule. The absence of evidence that defendant had committed a prior breaking and entering would not have changed the result of his trial. This Court should rejected his attempt to undo his felony murder conviction.<sup>6</sup>

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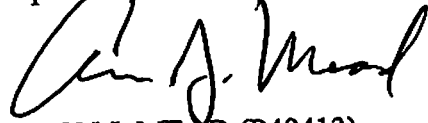
<sup>6</sup> The People are troubled, however, by the fact that because the time limitations had run, defendant should not have been convicted of the remaining offenses. The People would not object to vacation of those convictions, but are unaware of any procedural means by which that may be accomplished in this Court now that defendant's direct appeal is over.

**REQUEST FOR RELIEF**

For these reasons, defendant's motion for relief from judgment should be denied.

DATED: April 10, 2024

Respectfully submitted,

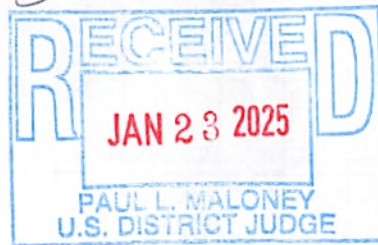
A handwritten signature in black ink, appearing to read "Aaron J. Mead". The signature is fluid and cursive, with the first name "Aaron" and last name "Mead" clearly distinguishable.

AARON J. MEAD (P49413)  
Assistant Prosecuting Attorney

Please  
Read  
Your Honor

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